REMARKS/ARGUMENTS

The Office Action mailed January 19, 2005 has been reviewed and carefully considered. Claims 1-13 are pending in this application, with claims 1 and 2 being the only independent claims. Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

In the Office Action mailed January 19, 2005, claims 1-5, 8, 10, and 11 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,096,448 (Wilkinson).

Claims 12-13 stand rejected under 35 U.S.C. §103 as unpatentable over Wilkinson.

Claims 6, 7, and 9 stand rejected under 35 U.S.C. §103 as unpatentable over Wilkinson in view of Applicants' admitted prior art.

The present invention is a Continuation-in-Part of U.S. Patent Application No. 09/381,113, filed October 15, 1999, which is a U.S. National Phase application based on International Application No. PCT/EP98/01436, filed on March 12, 1998, and which claims priority to foreign priority document DE 197 10 819.9, filed March 15, 1997. Wilkinson issued on August 1, 2000 based on an application filed on December 23, 1997. As described below, the subject matter of the presently claimed invention is supported in the original international application and the foreign priority document and accordingly claims priority to the original priority date. Since Wilkinson was filed after the priority date of the present application, it is respectfully submitted that Wilkinson does not qualify as prior art.

The following explanation of support for the subject matter of the presently claimed invention will refer to three documents: (1) the foreign priority document (DE 197 10 819.9); (2) the international application (PCT/EP98/01436); and (3) the certified translation of the international

application filed with the national phase application. As indicated in the Office Action dated April 23, 2004, receipt of the certified copies of the foreign priority document have been received.

The present independent claim 1 recites "an anode-electrolyte-cathode unit having an anode catalyst; and means for impressing a positive voltage pulse on the anode" and independent claim 2 recites "impressing at least one positive voltage pulse on the anode". The recitations appear in the original claims 1 and 2, as indicated in the certified translation of the original international application. A comparison of claims 1 and 2 of the international application and claims 1 and 2 of foreign priority document reveals that these are the same.

Furthermore, each of the independent claims further recites that "the fuel cell has a voltage that does not change sign and at most becomes zero so that U (fuel cell) = U(cathode) - U(anode) $\geq$ 0". It is respectfully submitted that this limitation is also supported in the original specification as follows.

Page 4, lines 1-3 of the certified English translation (page 3, lines 11-14 of the international application; and col. 2, lines 2-5 of the foreign priority document) discloses that the positive voltage pulse may be applied by producing a temporary short circuit between the cathode and anode. This portion discloses that the voltage across the fuel cell may be zero.

Page 4, lines 14-19 of the certified English translation (page 3, lines 25-31 of the international application; and col. 2, lines 19-21 of the foreign priority document) discloses another way to impress a positive voltage pulse is to apply a 1V DC Voltage using a switch. As indicated in the article referenced by the previous amendment and which was submitted by fax on January 12, 2005, the ideal voltage is known by those skilled in the art to be greater than 1 volt (approximately 1.2 volts). Accordingly, those skilled in the art would recognize that the application of the voltage pulse of 1 volt would create fuel cell voltage of greater than zero.

Furthermore, Fig. 2 is a graph which shows current at the anode. Page 6, lines 1-10, of the certified translation (page 4, lines 26-37 of the international application; and col. 2, line 59 - col. 3, line 2 of the foreign priority document) discloses that a pulse is 700 mV is used to produce the graph of Fig. 2 which changes the voltage between 900 mV and 200 mV. This embodiment teaches that the pulse produces a voltage which does not change sign and that is above zero.

Although the original application did not expressly include the formula recited in the claims, the examples cited in the specification teach those skilled in the art the parameters defined by the formula. Accordingly, the entire claim includes support in the original application and the foreign priority document. Since Wilkinson was filed after the filing date of the foreign priority document, it is respectfully submitted that Wilkinson is not a proper prior art reference in the present application. Therefore the rejections of the claims in view of Wilkinson should be withdrawn.

In view of the above remarks, the application is now deemed to be in condition for allowance and notice to that effect is solicited.

Respectfully submitted,

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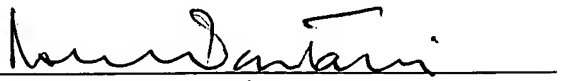
By 

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